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WASHINGTON, D.C. 20037-3202

In re Application of :
Richard Hertzog, et al :
Serial No.: 08/601,879 : PETITION DECISION
Filed: February 15, 1996 :
Attorney Docket No.: :

This is in response to applicants' supplemental petition under 37 CFR 1.181, filed April 21, 1997, requesting suspension of prosecution in this reissue application pending outcome of a related merged reissue/reexam proceeding.

Reference is made to a previous petition, filed March 7, 1997, and the decision of the Group Director denying the petition mailed June 6, 1997. It appears that this supplemental petition was not correlated with the file at the time the previous petition decision was mailed.

Petitioner requests suspension of prosecution in the instant application which has had a Notice of Appeal to the Board of Patent Appeals and Interferences entered in the file on February 28, 1997. The filing of a Notice of Appeal triggers a two month period within which appellant must file a Brief on Appeal. Such period may be extended under 37 CFR 1.136(a). 37 CFR 1.103(a) states:

(a) Suspension of action by the Office will be granted for good and sufficient cause and for a reasonable time specified upon petition by the applicant and, if such cause is not the fault of the Office, the payment of the fee set forth in § 1.17(I). Action will not be suspended when a response by the applicant to an Office action is required.

Applicant has not set forth in this petition nor in the previous petition a "good and sufficient cause" for suspending prosecution. In addition since a response is still required from applicant (the Appeal Brief) prosecution cannot be suspended by the Office.

For the above reasons, applicants' petition is **DENIED**.

Applicants' Appeal brief, if not previously filed, remains due.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to BOX DESIGN, Director Group 1200/2900, Washington, D.C. 20231, or by telephone at (703)308-3824 or by facsimile transmission at (703) 305-5408.

A handwritten signature in dark ink, appearing to read 'John Kittle', is written over the printed name.

John Kittle
Director, Group 1200/2900